IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 7996 of 2001

Between:

M/s.National Metal Industries, Bogaram village, Keesara Mandal, Ranga Reddy District, rep.by its Proprietor, Mirza Osman Baig.

..... PETITIONER

AND

1. A.P. State Financial Corporation, Chirag Ali Lane, Hyderabad, rep.by its Ranga Reddy (E) Senior Branch Manager.

2. Superintending Engieer, Operation, Ranga Reddy Circle, Mint Compound, Hyderabad.

3. The Divisional Engineer, Elect. Operation, A.P.C.P.D.C. Ltd., Rural North, Habsiguda, Ranga Reddy Dist.

4. Assistant Divisional Engineer (Elect.), Operation, APCPDC, Sainikpuri, R.R.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or Mandamus or any other appropriate writ order or direction declaring the action of the respondents especially the respondents 2 to 4 herein in insisting upon the petitioner to pay a sum of Rs.1,10,661.25 for providing of power supply to the petitioner industry as illegal and arbitrary and consequentially direct the respondents 2 to 4 herein to provide the necessary power supply to the petitioner industry by holding that the petitioner industry herein is not liable to pay the said amount of Rs.1,10,661.25.

Counsel for the Petitioner:MR.M.CHANDRASEKHAR REDDY

Counsel for the Respondent No.1:Mr.Y.N.Lohita, S.C.for A.P.S.F.C.

Counsel for the Respondent Nos.2 to 4: Mr. Kanakamedala Ravindra Kumar, S.C.for A.P.Transco

The Court made the following Order:

ORDER:

Petitioner who is a purchaser in an auction conducted by first respondent herein filed this writ petition declaring the action of the respondents in insisting upon the

petitioner to pay the defaulted amount committed by the earlier owner for providing the power supply to the petitioner industry as illegal.

There is no dispute with regard to the fact that the petitioner, in pursuance of the auction conducted after following due procedure, became the highest bidder and running the same. However, it is found that prior to the auction, there have been some arrears to be paid by the earlier owner, which is sought to be levied against the petitioner.

The aforesaid question is no longer res intergra in view of the decision of the Supreme Court in **Isha Marbles vs. Bihar State Electricity Board,** wherein the Supreme Court held that auction purchaser cannot be liable to meet any liability of the previous owner/borrower.

Following the above decision of the Supreme Court, this writ petition is allowed as prayed for.

Stv/- 28—09—2004.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday the Twnety Eighth Day of September Two Thousand Four.

To

1. A.P. State Financial Corporation, Chirag Ali Lane, Hyderabad, rep.by its Ranga Reddy (E) Senior Branch Manager.

2. Superintending Engieer, Operation, Ranga Reddy Circle, Mint Compound, Hyderabad.

3. The Divisional Engineer, Elect. Operation, A.P.C.P.D.C. Ltd., Rural North, Habsiguda, Ranga Reddy Dist.

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5. Two CD copies.